

## **REMARKS**

The Office Action mailed May 3, 2006 has been received and the Examiner's comments carefully reviewed. Claims 12-17 and 28-37 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

### **Finality of the Rejection**

The Examiner indicated that the Office Action of May 3, 2006 is final. Applicants respectfully submit that finality of the rejections is premature and request withdrawal of the finality.

In particular, Applicants received a non-final Office Action dated July 28, 2005. On October 26, 2005, Applicants emailed the Examiner proposed amendments in preparation for a telephone interview. (A copy of the emailed proposed amendments can be furnished upon request.) In the interview, on October 27, 2005, the proposed amendments were discussed.

#### a) Claim 12

In the interview of October 27, 2005, the Examiner expressed concerns regarding the proposed amendments of claim 12. To advance the case to allowance, Applicants proposed further amendments of claim 12. In particular, Applicants proposed to further incorporate the limitation of "an anvil including a wedge-shaped portion and a rectangular portion." The Examiner indicated that such amendments do address the art rejections cited, however, patentability would be further considered upon completion of a final art search. (See summary of Examiner Interview in Applicants' Response dated October 28, 2005.)

In accordance with MPEP 713.01(III), since an agreement was reached as a result of the interview of October 27, 2005 (e.g., that the amendments address the current art rejections), Applicants' representative promptly submitted an amendment on October 28, 2005 pursuant to the agreement. Applicants summarized the results of the interview in the Amendment of October 28, 2005.

In an Examiner's Interview Summary of November 2, 2005, the Examiner stated that amended claim 12 would still read on Zehr because a triangle section would inherently have a second reference point . . . and, that a tapering anvil near a sidewall

may read on claim 12. These particular limitations, however, relate to the originally proposed amendments that were emailed to the Examiner prior to the interview. It is believed that the Examiner did not account for the agreement reached during the interview with regards to the subsequently proposed amendments. It is noted that no comments were provided in the Examiner's Interview Summary regarding the subsequent amendments of reciting an anvil having both a wedge-shaped portion and a rectangular portion.

In the final Office Action of May 3, 2006, the Examiner maintained the same rejection as presented in the previous Office Action without consideration of the agreement reached in the interview of October 27, 2005.

In addition, the Examiner has not accounted for the limitation of "an anvil including a wedge-shaped portion and a rectangular portion" in the final Office Action. The grounds for the rejection of claim 12 are therefore not clearly developed so that Applicants may readily judge the advisability of appeal. MPEP 706.07.

Accordingly, Applicants respectfully submit that finality of the rejection of claim 12 is premature, and request withdrawal of the finality.

b) Claim 28

In the interview of October 27, 2005, the Examiner indicated that the proposed amendments of claim 28 do address the art rejections cited, however, patentability would be further considered upon completion of a final art search. (See summary of Examiner Interview in Applicants Response dated October 28, 2005.)

In accordance with MPEP 713.01(III), since an agreement was reached as a result of the interview of October 27, 2005 (e.g., that the amendments address the current art rejections), Applicants' representative promptly submitted an amendment on October 28, 2005 pursuant to the agreement. Applicants summarized the results of the interview in the Amendment of October 28, 2005.

In the Examiner's Interview Summary of November 2, 2005, the Examiner stated that it appeared that amended claim 28 adds significant limitations.

In the final Office Action of May 3, 2006, the Examiner maintained the same rejection as presented in the previous Office Action without consideration of the agreement reached in the interview of October 27, 2005.

In addition, the Examiner has not accounted for the limitation of an anvil including "a wedge-shaped portion and a rectangular portion" in the final Office Action. The grounds for the rejection of claim 28 are therefore not clearly developed so that Applicants may readily judge the advisability of appeal. MPEP 706.07.

Accordingly, Applicants respectfully submit that finality of the rejection of claim 28 is premature, and request withdrawal of the finality.

### **Rejections Under 35 U.S.C. §112**

The Examiner rejected claims 29 and 37 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

#### a) Claim 29

With regards to claim 29, the Examiner states there is no antecedent basis for "the rectangular portion of the anvil" (line 3). Applicants respectfully note that antecedent basis is provided in claim 28 (lines 5-6), from which claim 29 depends.

#### b) Claim 37

With regards to claim 37, the Examiner states that there is no antecedent basis for "the impact of generally perpendicular forces." Applicants respectfully traverse this rejection, as the limitation as recited does not impart a meaning that is unclear. In particular, "the impact of perpendicular forces" is not structural to warrant such a rejection. Rather, "the impact" is more analogous to an inherent limitation, which has antecedent basis in the recitation of the components themselves (MPEP 2173.05(e), noting, for example, "the outer surface of said sphere" would not require an antecedent recitation that the sphere have an outer surface).

The failure to provide explicit antecedent basis for a term does not always render the claim indefinite. If the scope of the claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. MPEP 2173.05(e). Applicants submit that those of skill in the art can clearly ascertain the scope and meaning of "the impact of generally perpendicular forces generated by the grinding drum."

While Applicants are not unwilling to amend claim 37, it is not clear how such an amendment would better the clarity of the limitation, and not be grammatically awkward.

In light of the above regarding claim 29 and 37, Applicants respectfully request withdrawal of this rejection.

**Rejections Under 35 U.S.C. §102**

The Examiner rejected claims 12-15, 28-31, 34, 35 and 37 under 35 U.S.C. §102(b) as being anticipated by Zehr (U. S. Publication 2002/0056773). Applicants respectfully traverse this rejection.

a)      Claims 12-15, 35 and 37

Claim 12 recites a grinding machine having an anvil and a grinding drum. The anvil includes a wedge-shaped portion and a rectangular portion. The wedge-shaped portion has a tapering surface extending from a first reference point to a second reference point; the second reference point being located farther from the drum's rotational axis than the first reference point.

Zehr discloses bars 44 that are rectangular in shape. Zehr does not disclose that the bars 44 can be formed to include both the shown rectangular shape and a wedge-shaped portion. While the Examiner points to disclosure in Zehr stating that "other cross-section shapes of bars are possible, such as round, square, triangular, oval, etc.", this portion of the specification does not disclose that the bars 44 can have two different or distinct shapes (i.e., a wedge-shaped portion and a rectangular portion). It is further impermissible to broaden the disclosure of Zehr to cover an anvil having two different or distinct portion shapes.

Zehr further does not disclose that a specific one of a wedge-shape portion or a rectangular portion of an anvil is positioned in a particular orientation relative to a grinding drum. In particular, Zehr does not discloses that one reference point of a wedge-shaped portion of an anvil, as opposed to the rectangular portion, is located farther from the drum's axis than that of another reference point. Zehr is silent as to how a wedge-shaped portion of an anvil having two distinctly shaped portions would be oriented relative to the axis of a drum.

A claim anticipates only if **each and every element as set forth in the claim** is disclosed in the reference. Zehr does not disclose an anvil having both a wedge-shaped portion and a rectangular portion, and further does not disclose reference points of the wedge-shaped portion positioned in relation to a drum, as recited in claim 12. At least for these reasons, Applicants respectfully submit that claim 12, and dependent claims 13-15, 35 and 37 are patentable.

b) Claims 28-31, and 34

Claim 28 recites a grinding machine having an anvil including a wedge portion and a rectangular portion. The anvil is located relative to a drum such that during operation, a tapering surface of the wedge portion receives the impact of perpendicular forces generated by the drum.

For similar reasons discussed above, Applicants respectfully submit that Zehr does not disclose that the bars 44 can be formed to include both a wedge portion and a rectangular portion.

Zehr further does not disclose that a specific one of a wedge portion or a rectangular portion of an anvil is positioned in relation to a grinding drum to receive the impact of perpendicular forces generated by the drum. In particular, Zehr does not disclose that a wedge portion, as opposed to a rectangular portion, of an anvil is to be located to receive the impact of perpendicular forces. Zehr is silent as to how a wedge portion of an anvil having two distinctly shaped portions would be oriented relative to a drum.

A claim anticipates only if **each and every element as set forth in the claim** is disclosed in the reference. Zehr does not disclose an anvil having both a wedge portion and a rectangular portion, and further does not disclose a wedge portion of an anvil positioned in relation to a drum, as recited in claim 28. At least for these reasons, Applicants respectfully submit that claim 28, and dependent claims 29-31 and 34 are patentable.

**Rejections Under 35 U.S.C. §103**

The Examiner rejected claims 15, 16, 31 and 32 under 35 U.S.C. §103(a) as being unpatentable over Zehr (U.S. Publication 2002/0056773) in view of Hundt (U.S. Patent 5,975,443). Claims 17 and 33 were rejected under 35 U.S.C. §103(a) as being

unpatentable over Zehr (U.S. Publication 2002/0056773) in view of Hundt (U.S. Patent 5,975,443) and further in view of Mankoff (U.S. 2,209,277). Claim 36 was under 35 U.S.C. §103(a) as being unpatentable over Zehr (U.S. Publication 2002/0056773). Applicants respectfully traverse these rejections.

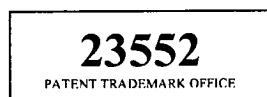
Claims 15-17 and 36 depend upon claim 12. Claims 31-33 depend upon claim 28. In view of the remarks regarding independent claims 12 and 28, further discussion regarding the independent patentability of dependent claims 15-17, 31-33, and 36 is believed to be unnecessary. Applicants submit that dependent claims 15-17, 31-33, and 36 are in condition for allowance.

### SUMMARY

It is respectfully submitted that each of the presently pending claims (claims 12-17 and 28-37) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise these arguments in the future.

Respectfully submitted,



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